

REMARKS

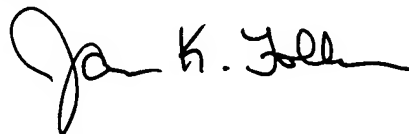
As a preliminary matter, Applicants note that the Examiner provided a response period of three (3) months from the November 17, 2003 mailing date of the Restriction Requirement (instead of the customary one (1) month). Accordingly, the present response, which is being filed on February 16, 2004, is being filed in a timely manner, without the need for extension of time fees.

Applicants respectfully submit that although the Examiner has attempted to provide an alternative product for use with the claimed process, the product identified by the Examiner does not satisfy the process claims. More specifically, MPEP §806.05(h) states that a restriction between a product and a process of using that product can be supported by showing either: (1) the process of using as claimed can be practiced with another materially different product; or (2) the product as claimed can be used in a materially different process. In the instant case, the Examiner relied upon rationale (1), and stated that “the method can be practiced utilizing any sizing guide, such as one not having a stylus member.” *See* November 17, 2003 Restriction Requirement, page 2, lines 13-14. However, the Examiner has failed to meet the criteria of rationale (1) because he has not provided a valid example of a different product because the product that the Examiner identified (a sizing guide without a stylus) is actually the type of product used in the claimed method, as defined in dependent Claims 19 and 29. In other words, the process as claimed (in dependent Claims 19 and 29) specifically states that the method utilizes a sizing member with a stylus. Therefore, the Examiner’s suggestion that the method can be used with a sizing member without a stylus is improper because utilizing a sizing member without a stylus does not satisfy dependent Claims 19 and 29. Thus, the Examiner has failed to provide a valid alternative product for use with the claimed process.

Accordingly, for the above-discussed reasons, Applicants respectfully request that the
Restriction Requirement be withdrawn.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

A handwritten signature in black ink, appearing to read "Ja K. Folker", written over a horizontal line.

By

James K. Folker
Registration No. 37,538

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
P:\DOCS\2602\69777438184.DOC